IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CRIMINAL JURISDICTION

CRIMINAL APPLICATION NO.3654 OF 2005
IN
CRIMINAL APPEAL NO.540 OF 2005

Shri Yogendra @ Tillu Ramlal Gupta.. Applicant

v/s.

The State of Maharashtra .. Respondent

Mr.M.J.Bhatt for the applicant.

Ms.P.H.Kantharia, Addl. Prosecutor for the State.

CORAM : SMT.RANJANA DESAI AND ANOOP V. MOHTA, JJ.

DATED : 20th October, 2005.

P.C.

Heard.

2. The applicant alongwith other accused is interalia convicted under section 302 read with section 149 I.P.C. and sentenced to suffer life imprisonment. The applicant is original accused No.4. We are informed by the learned counsel appearing for the applicant that by order dated 11th August, 2005, original accused No.5 is released on bail. He states that all other accused have also been released on bail by this court. According to him, the case of the present applicant is almost identical to that of the accused who have been released on bail. According to the prosecution, the applicant had a sword in his hand and he dealt a sword blow on the deceased. The learned counsel submitted that the medical evidence does not indicate that the deceased had received

any sword injury and therefore, the applicant be released on bail. We have had a look at the evidence of P.W.7, Dr.More who had performed the postmortem on the deceased. He has clearly stated that the injuries mentioned in column No.17 are not possible if sharp edged sword is used. He has further stated that sharp edged weapon was not used while causing injuries Nos.18 and 19 described in the postmortem note. If that is so, then prima facie, it cannot be said that the fatal injuries were caused by sword blow allegedly given by the applicant.

3. Ms.Kantharia, the learned A.P.P. contended that the doctor has also stated that the blunt portion of the same weapon can cause injuries. This submission does not impress us. According to the prosecution, the other accused have used wooden rods. Then it is quite possible that the fatal injuries were caused by the wooden rods. In view of this, considering the fact that all other accused have been released on bail except accused No.6 we are of the opinion that the present applicant should be released on bail. Hence we pass the following order:-

The applicant Yogendra @ Tillu Ramdas Gupta is ordered to be released on bail in the sum of Rs.20,000/- with one or two solvent sureties to make up the amount. While on bail, the applicant shall report

to Wagle Estate Police Station once in a month on a date to be fixed by the concerned Station House Officer. The applicant shall not leave Thane and Mumbai Districts without the prior permission of the Station House Officer concerned.

4. Application disposed of accordingly.

(SMT.RANJANA DESAI, J.)

(ANOOP V. MOHTA, J.)